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OFFICE OF THE SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

August 19, 1982

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UNCLASSIFIED
(With Confidential Attachment)

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE SECRETARY OF AGRICULTURE
THE SECRETARY OF COMMERCE
THE ATTORNEY GENERAL
THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
CHAIRMAN, COUNCIL OF ECONOMIC ADVISORS
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
ASSISTANT TO THE PRESIDENT FOR POLICY DEVELOPMENT
UNITED STATES TRADE REPRESENTATIVE
DIRECTOR OF CENTRAL INTELLIGENCE

SUBJECT Senior Interdepartmental Group
Economic Policy (SIG-IEP)

Attached is a Treasury Department legal memorandum outlining a possible course of action to enforce the Soviet gas pipeline controls. It will be discussed at tomorrow's meeting, in addition to the question of U.S. funding of multilateral development banks.

TREA has not reviewed. Processed IAW CIA TREA arrangement letter dtd 4/11/08.

James L. Shelton
for David E. Pickford
Executive Secretary

Attachment

DHS Review Completed.

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THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D C 20220

AUG 19 1982

MEMORANDUM TO SECRETARY REGAN

FROM: Peter J. Wallison

SUBJECT: Soviet Gas Pipeline Controls

The State Department was notified late yesterday afternoon that the French government was about to order Dresser/France, a wholly-owned subsidiary of Dresser Industries, to deliver three compressors to a Soviet ship in Le Havre for use in the Soviet gas pipeline.

As you know, we are currently preparing a comprehensive memorandum on the mechanisms for enforcing the December 1981 and June 1982 controls. Although the memorandum will not be cleared by all the agencies and ready for circulation to the SIG/IEP until tomorrow, I believe it will suggest that (i) our jurisdiction is strongest under the controls when we act against the foreign subsidiary of a U.S. parent, and (ii) our strongest case for obtaining jurisdiction over a participant in a transaction which violates the controls is jurisdiction over the U.S. parent of a foreign exporter.

In these circumstances, we may have an opportunity to enjoin Dresser Industries from permitting its subsidiary to violate U.S. export controls; we may be able do this by obtaining a temporary restraining order (TRO) against Dresser Industries, which I believe is located in Houston, Texas. If a TRO is to be sought, Justice Department lawyers will have to be in court in Houston no later than Monday, August 23. If shipment occurs before the TRO is sought, the TRO will be denied; if shipment is made before the TRO is obtained, the TRO will be of no value.

Accordingly, I think you should raise at the SIG/IEP meeting on Friday, as an emergency matter, the question of taking legal action against Dresser Industries. Although there are still many outstanding questions as to how far the United States should go in enforcing the new controls -- and serious legal issues as to whether an injunction will be available against Dresser Industries -- it seems to me that we should not let the opportunity to obtain an injunction go by without full consideration by the SIG/IEP.

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There are also, in my view, particular benefits of acting against Dresser. First, we will be acting against a U.S. corporation and not against its foreign subsidiary; this should allay some of the concerns of the Europeans about extraterritoriality. Second, seeking and obtaining a TRO would send a strong signal that the President intends to enforce the gas pipeline regulations by whatever means available; conversely, failure to act after notice of France's intentions would send the opposite signal. Third, if there is to be a challenge in the U.S. courts to the validity of the regulations -- and our memo will show that such a challenge is possible -- the case against Dresser might well be our strongest litigating position. If we lose in that case on the merits, then we will know that actions against foreign companies abroad are highly unlikely to succeed.

For all these reasons, I would recommend that the matter be taken up at the SIG/IEP meeting on Friday.

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